

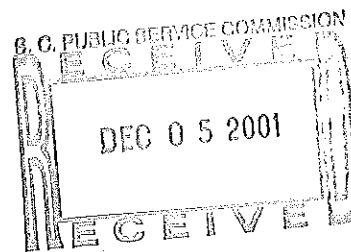
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BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

Docket No. 2001-411-E

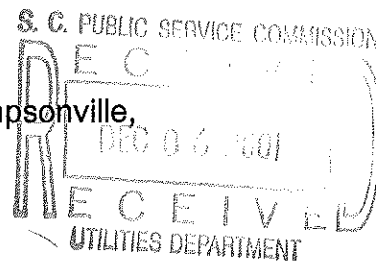
In Re:

APPLICATION FOR CERTIFICATE
OF ENVIRONMENTAL COMPATIBILITY
AND PUBLIC CONVENIENCE AND NECESSITY
GREENVILLE COUNTY POWER, LLC



Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. My name is Lee Judd. My home address is 205 Loraine Drive, Simpsonville,
South Carolina.



Q. IN WHAT CAPACITY ARE YOU APPEARING TODAY?

A. I am a resident within a mile of proposed power plant, Greenville County Power
LLC. ("Applicant")

Q. ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A. I am appearing on behalf of myself and five other individuals who filed a Petition
to Intervene in the Application of Greenville County Power, LLC for a certificate of
environmental compatibility and public convenience and necessity.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE REGULATORY AGENCIES?

A. Yes, I was Counsel Pro Se for General Service Administration Board of Contract
Appeals in Washington, DC.

RETURN DATE: OK Dec 7
SERVICE: OK Dec 7

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. My affidavit describes fatal flaws in Greenville County Power, LLC/Cogentrix's ("Applicant") Application and supporting documents.

Q. ARE YOU FAMILIAR WITH THE FACTS AND INFORMATION SET FORTH IN GREENVILLE COUNTY POWER'S APPLICATION?

A. Yes, I have reviewed the application and the supporting documentation. In addition, I have reviewed additional documents provided by the Applicant.

Q. PLEASE PROVIDE A SUMMARY OF YOUR CONCLUSIONS WITH REGARD TO THE PROPOSED FACILITY THAT ARE DISCUSSED IN YOUR TESTIMONY.

A. Upon review of the Application and supporting documents I found that the information provided is incomplete and or misleading.

- (i) Wholesale facilities have not helped reduce cost to the customer and are not regulated. Cogentrix's Presentation of Need for the Project (Exhibit 1) indicates that "the MidAtlantic Region has experienced increases in wholesale electricity prices during the high demand summer seasons." This statement confirms that should Cogentrix sell within the state or region that their rates are not competitive when compared with the rates of the local service provider. Additionally, the placement of other wholesale facilities has not helped reduce costs of power to the consumer. Due to this problem, California is currently suing the unregulated merchant plants for price fixing in a time of need. (Exhibit 2). This Commission cannot provide any assurances that these same problems would not occur in this

state because the wholesale plants are not regulated and will not be subject to the rules and regulations of the Commission.

- (ii) Sound Level data is misleading. Exhibit 1 lists different sound levels for common sounds in everyday life. The data shows the noise level of a lawnmower at user point and the plant noise 400ft away. Looking at the graph would lead you to believe that the plant noise is below many common sounds. The noise level should be compared at the same distances from all tested objects.
- (iii) Misleading Site Location and Description. Application for a Certificate of Compatibility). On page 2, 11-13 and 17, Applicant states that agricultural and undeveloped land surrounds the property. On pages 11-13 again the site area is again represented as a rural area ten miles outside of the City of Simpsonville. These representations are misleading and incorrect. The most populated areas of Simpsonville are located within a five-mile radius of the plant. (Exhibit 3 and Exhibit 4) Population listed in the Application includes only the population of the Zoning Area 32 and its 90 square miles. The Applicant gives the impression that only 8208 people reside in the 90 miles around the plant. The property that the proposed plant would be located on, is located in the upper portion of the Zone 32. If Applicant had given a five-mile radius the site would be better represented. (See Chart on Page 4) If the Applicant had reported the population within a five-mile radius the Commission would have found that Zones 33.02, 30.07, 30.06, 31 and 31.02 would be included. This area includes the following:

subdivisions and schools: Hunters Woods, Brentwood, Westwood, Neely Forest, Standing Springs, Foxdale, Plain Elementary School, River Ridge, Neely Farms, Long Creek Plantation, Martins Grove, Waterton, Fairview Lake, Glen Meadows 1&2, Knoll Creek, Harrison Hills, Farmwood, Country Walk, Wood Haven, Trollingwood, Mill Creek, Burgess School, Ware Place, Lickville, Fork Shoals, Fork Shoals Elementary School, Deer Forest, Mckelvey Crossroads, Jenkins Estates. The population for each of those Zones is:

Zone Region	Population Listed in 2000 census	Proposed Subdivisions in 2000 and 2001
32	8208	-Summer Hill Plantation Lots = 118 -Bakers Creek lots = 118 Partridge Hill lots = 13
33.02	7727	Fox Springs lots = 124 Huff Creek Estates lots = 29 Kimberly Hills lots = 46 Gunter Road Lots = 100
30.07	7335	Sunnybrook lots = 101 Great Oaks lots = 62 Glen Meadows Phase III lots = 26
30.06	9311	Fairview Forest lots = 139 Fairview Meadows lots = 121 Southchase lots = 3
31	5558	Sanibelle lots = 28 Garrett lots = 171 Deer Creek lots = 21 Durbin Ridge estates lots = 116 Parks Grove lots = 75 Country Gardens lots = 73
31.02	7727	

*The city of Greenville has 59,000 residents in the city limits. Within a five-mile to ten-mile radius are 45, 866 residents and 19 proposed subdivisions with a total of 1484 new lots. (Map in Applicant's Study is from 1984.)

- (iv) No contracts to sell. Assessment of Capacity Need of the Application does not list any contracts for the sale of power to any utility within the State of South Carolina or the region.
- (v) Statement of planned retirements improving the market capacity is vague, misleading and unsupported by any documentation or study. Additional capacity at higher cost is not competitive it is just more for more.
- (vi) No company history: Applicant does not give any company history to represent to the Commission and the citizens of this state that Applicant has the knowledge, capacity and experience to operate a plant of this size.
- (vii) Does not list lawsuits and EPA violations Applicant fails to include any information regarding the Applicant's history as a party to litigation and/or arbitration and or any EPA or DHEC violations. This information is necessary to demonstrate the Applicant's reliability and integrity.
- (viii) Applicant fails to include in its application the following:
 - a) Evacuation plans and Emergency Response
 - b) Material Safety Data Sheets (MSDs) Emergency Contacts for Water Treatment Chemicals and Storage tanks, fires, floods and spills.
 - c) Groundwater Well Information BoreHole logs & data to assure ground water is not contaminated by site.
 - d) Specific Sound Power Level Calculations from next to the plant and sample residences.

- e) Socio-economic Impact Assessment Study
- f) Maintenance of Roads: Cost of Upgrade and improvement
- g) Formaldehyde Study
- i) Reedy River Impact Study
- j) Additional information on site storage tanks
 - Capacity
 - Hazardous Material Contained
 - Secondary Containment
 - Leak Detection
- k) Geological Study of the Site
- l) Flood Studies of the Area and relationship of the Plant to the Flood Plane

(ix) Costs to upgrade and expand power lines: Applicant indicates that the power lines will have to be improved and that the Duke Power switch area will be expanded to handle the additional volume required. Applicant does not address who bears the cost of these facility upgrades.

(X) Natural Gas Price increase: Applicant indicates that the gas lines are currently not available on site and that the gas will have to truck in. How many and how often will the gas be trucked in, does the Applicant have a commitment that Transco will do the line up grade? Applicant does not address who bears the cost of the facility upgrade or the effect of gas supply and demand costs to the region. (Exhibit 5)

- (xi) Duke Power or other Public Utilities unable to expand their facility needs: Applicant states it meets a need but if Duke Power is unable to expand its facilities and must acquire power from Applicant's proposed plant at a higher cost, the consumer will have to then pay higher rates due to the increase in cost to Duke Power or any other public utility within the state.
- (xii) Millions of Gallons of Water A Day: This is the second plant that will be piping water in from waste management. Waste Management normally releases this water into the Reedy after it has been cleaned. The removal of this contribution to the Reedy will have significant effects to the volume and flow of the Reedy. This will effect all lakes, wells and areas below the Mauldin Waste Plant.
- (xiii) Inadequate Geology & Soil Study: Applicant has, to Petitioners knowledge, to complete research to determine if the subject property is in the flood zone and if the subject property is near the fault line that runs through the area.

Q. DO YOU HAVE CONCERNS REGARDING THE COMPANY STRUCTURE?

A. Yes, as a limited liability corporation, the parent company is protected from collection if the project goes bankrupt. The company is protected but what protects the citizens of this State?

Q. DO YOU HAVE ANY OTHER CONCERNS?

A. Yes, Applicant's subsidiary in Texas has filed for bankruptcy, and the company has announced that it is for sale. (Exhibit 6) Is the company financially secure?

If these companies are allowed in Carolina South, the market over builds, and the site is abandoned, who will pay for the removal of the structures and stacks to restore the land to its natural condition? Will the company be required to issue a bond?

Q. DO YOU BELIEVE THERE IS A NEED FOR THIS SITTING?

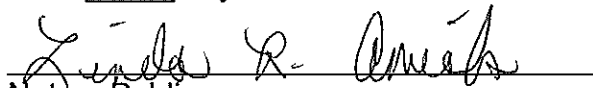
A. No, Applicant hasn't proven a need in the State or the region. The industry is quickly reaching the point of over building and this plant is not needed. In addition, the proposed site may be prime for the Company, but it is at a great cost to the residents nearby and the citizens of this State. The Infrastructure Bonds offered by Greenville County are at risk due to the increased volatility of this wholesale industry. For example the recent Chapter 11 filing by Enron. The only benefit that the Applicant can offer us at this time is tax revenue at a greatly discounted rate. The citizens, however must pay with their property value, increase in gas and electricity prices, use of natural resources, and live with significant additional pollution should this plant be allowed. Applicant has no existing contracts to sell within the state or region. The sitting of this plant could cost the state jobs. An industry that actually creates significant new employment may not be able to obtain permits because the area of the state is in non-attainment. All based upon the theory that in the future we may need additional electricity. When the power plant industry has expressed concerned that these plants are being over built. (Exhibit 6)

I hereby swear that the foregoing is true and correct to the best of my information
and belief.



Lee Judd

Subscribed and sworn to before me
This 30th day of 2001.



Notary Public

My commission expires: **My Commission Expires**
~~March 5, 2011~~